

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

CAMPBELLTON GRACEVILLE)
HOSPITAL CORPORATION, a)
Florida Non-Profit Corporation)

Plaintiff,)

v.)

Case No.

PEOPLES CHOICE HOSPITAL,)
a foreign corporation,)

Defendant.)

PEOPLE'S CHOICE HOSPITAL'S NOTICE OF REMOVAL

TO THE CLERK OF THE ABOVE-ENTITLED COURT:

PLEASE TAKE NOTICE that Defendant, THE PEOPLE'S CHOICE HOSPITAL, LLC ("PCH"), wrongly identified as a corporation, hereby removes to this Court the state court action described below based on the existence of diversity jurisdiction:

I. INTRODUCTION

1. On or about June 21, 2016 an action was commenced in the Circuit Court of the Fourteenth Judicial Circuit, Jackson County, Florida, entitled *Campbellton Graceville Hospital Corporation v. Peoples Choice Hospital* as Case No. 16-136CA (the "State Action"). A copy of the state court Complaint is attached as Exhibit 1.

2. The State Action consists of a one count Complaint seeking injunctive relief.

3. On or about June 22, 2016, Plaintiff, Campbellton Graceville Hospital Corporation (“CGH”) moved for and obtained an *ex parte* order granting it what amounts to permanent injunctive relief. A copy of this *ex parte* order is attached as Exhibit 2.

4. PCH was served with a copy of the Summons and Complaint on or about July 14, 2016. A copy of plaintiff’s Affidavit of Service is attached as Exhibit 3. Because this Notice of Removal is filed within thirty days of PCH’s receipt of the Summons and Complaint, it is timely filed. *See* 28 U.S.C. § 1446(b).

5. Pursuant to 28 U.S.C. § 1446(a), the United States District Court for the Northern District of Florida, Panama City Division, is the district and division in which the State Action is pending. *See* 28 U.S.C. § 93(b). Accordingly, venue is proper in this Court.

6. Defendant will file today a copy of this Notice with the Clerk of the Circuit Court of the Fourteenth Judicial Circuit, Jackson County, Florida, and give written notice of the same to Plaintiff’s counsel, pursuant to 28 U.S.C. § 1446(d).

II. REMOVAL IS PROPER BASED ON DIVERSITY JURISDICTION

7. The basis for removal is diversity jurisdiction pursuant to 28 U.S.C. § 1332 because: (a) there is diversity of citizenship between the Plaintiff and the

Defendant, and (b) the amount in controversy exceeds the sum or value of seventy-five thousand dollars (\$75,000.00), exclusive of interest and costs, as shown in the Affidavit of Dr. Seth J. Guterman, PCH's Manager, attached as Exhibit 4.

A. Diversity of Citizenship Exists.

8. For purposes of diversity of jurisdiction, a corporation is deemed to be a citizen of the state where it is incorporated and where it has its principal place of business. 28 U.S.C. § 1332(c)(1).

9. Plaintiff, CGH, is, per its own allegations, a Florida Corporation with a principal place of business in Jackson County, Florida. (*See* Ex. 1 at ¶ 1.)

10. Plaintiff has also alleged that PCH is a foreign corporation with its principal place of business in Oak Brook, Illinois. (*See* Ex. 1 at ¶ 2.) PCH is not a foreign corporation, but is a foreign limited liability company, organized in Delaware, registered to do business in Illinois, and that maintains its principal place of business in Oak Brook, Illinois. (*See* Ex. 4 at ¶¶ 3-4)

11. Dr. Guterman, PCH's sole member and manager, is a resident of Chicago, Illinois. (*See* Ex. 4 at ¶¶ 1, 3)

12. "[A] limited liability company is a citizen of any state of which a member of the company is a citizen." *Rolling Greens MPH, L.P. v. Comcast SCH Holdings L.L.C.*, 374 F.3d 1020, 1022 (11th Cir. 2004).

13. Because CGH is a citizen of Florida and PCH, through its sole member and Manager, Dr. Guterman, is a citizen of Illinois for diversity purposes, the first prong of the diversity test is satisfied.

B. The Amount in Controversy Exceeds \$75,000.

14. Section 1332 requires the amount in controversy to exceed “the sum or value of \$75,000, exclusive of interest and costs . . .” 28 U.S.C. § 1332(a).

15. Here, although the State Action seeks only injunctive relief, and not monetary damages, it acknowledges that PCH and CGH were parties to a Consulting Agreement that paid PCH a management fee of \$30,000 per month (*See* Ex. 1, ¶ 9). Pursuant to that Consulting Agreement alone, PCH is currently owed \$90,000, and the amount it is owed will continue to increase by \$30,000 per month unless and until it is paid by CGH. (*See* Ex. 4, ¶¶ 5-9) Once the State Action is removed to this Court, PCH will seek leave of court to answer CGH’s Complaint and to file affirmative defenses and a counter-claim seeking recovery of these, and other, amounts owed to PCH. (*See* Ex. 4, ¶ 10) Accordingly, the amount in controversy exceeds \$75,000 and the second prong of the diversity test is satisfied. *See* 28 U.S.C. § 1446(c)(2)(A)(ii) and 1446(c)(2)(B). This Court has jurisdiction over this case.

16. Because there is complete diversity of citizenship between Plaintiff and Defendant, and because Defendant will be seeking damages in excess of the

\$75,000 jurisdictional threshold, PCH may remove this action pursuant to 28 U.S.C. §§ 1332 and 1441.

17. PCH reserves the right to supplement this Notice of Removal and/or to present additional arguments in support of its entitlement to removal.

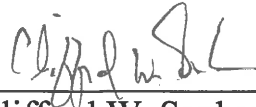
18. No admission of fact, law or liability is intended by this Notice of Removal, and all defenses, affirmative defenses, and motions are hereby reserved.

WHEREFORE, Defendant, The People's Choice Hospital, LLC, respectfully requests that the above-referenced State Action, now pending in the Circuit Court of the Fourteenth Judicial Circuit, Jackson County, Florida, be removed to the United States District Court for the Northern District of Florida, Panama City Division.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to Michelle Blankenship Jordan, Esq., service@jordanpeskin.com and Stephanie@jordanpeskin.com via electronic submission this 3rd day of August, 2016.

BARRON & REDDING, P.A.



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ATTORNEYS FOR DEFENDANT

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**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
IN AND FOR JACKSON COUNTY, FLORIDA**

Case No.: _____
Division: Civil

**CAMPBELLTON GRACEVILLE HOSPITAL
CORPORATION, a Florida Non-Profit Corporation**

Plaintiff,

vs.

**PEOPLES CHOICE HOSPITAL, a Foreign
Corporation**

Defendant

COMPLAINT

Campbellton Graceville Hospital Corporation, Plaintiff herein, files this Complaint for injunctive relief against Peoples Choice Hospital, Defendant herein, and alleges:

PARTIES

1. Plaintiff, Campbellton Graceville Hospital Corporation ("CGH"), a Florida Corporation, has a principal place of business in Jackson County, Florida.

2. Defendant, Peoples Choice Hospitals ("PCH"), a Foreign Corporation, has a principal place of business at 2000 Spring Road – Suite 200, Oak Brook, Illinois.

JURISDICTIONAL STATEMENT

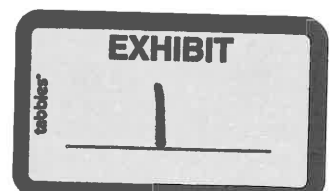
3. This is an action for an injunction. This action is a matter within the jurisdiction of the court in accordance with Section 26.012(3) of the Florida Statutes.

LONG ARM JURISDICTION

4. Defendant, Peoples Choice Hospital, has submitted itself to the jurisdiction of the courts of the State of Florida under Section 48.193(1)(a)(1) of the Florida Statutes because Defendant, Peoples Choice Hospital, has operated, conducted, engaged in, or carried on a business or business venture in this state.

5. Defendant, Peoples Choice Hospital, has submitted itself to the jurisdiction of the courts of the State of Florida under Section 48.193(1)(a)(2) of the Florida Statutes because

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Defendant, Peoples Choice Hospital, committed a tortious act within this state.

6. Defendant, Peoples Choice Hospital, has submitted itself to the jurisdiction of the courts of the State of Florida under Section 48.193(1)(a)(7) of the Florida Statutes because Defendant, Peoples Choice Hospital, breached a contract in this state by failing to perform acts required by the contract to be performed in this state.

7. Defendant, Peoples Choice Hospital, has submitted itself to the jurisdiction of the courts of the State of Florida under Section 48.193(1)(a)(9) of the Florida Statutes because Defendant, Peoples Choice Hospital, entered into a contract that complies with Section 685.102 of the Florida Statutes.

VENUE

8. Venue in Jackson County, Florida is proper in this action under Section 47.011 of the Florida Statutes because the breaches of contract giving rise to this action occurred in this county.

FACTS

9. This request for injunctive relief relates to a contract dated May 11, 2015, attached hereto as Exhibit A. Under the terms of this agreement, Peoples Choice Hospital was obligated to manage the day-to-day operation of Campbellton Graceville Hospital for a management fee of \$30,000.00 per month.

10. Peoples Choice Hospital was required under the agreement to provide regular monthly financial accounting to the board of directors of Campbellton Graceville Hospital. Peoples Choice Hospital has failed to provide such monthly reports since June 2015.

11. Peoples Choice Hospital was required under the agreement to act in good faith on behalf of CGH. On numerous occasions, PCH has deliberately and intentionally refused to comply with public records requests for information from the board's attorney and as such have intentionally and willfully failed to comply with Florida law. Copies of emails between the board's counsel the CFO of CGH and PCH are attached hereto as composite Exhibit B.

12. Peoples Choice Hospital was required under the agreement to act in good faith on behalf of CGH. On June 20, 2016, a lawsuit against CGH was filed in Broward County, Florida, by Reliance Laboratory seeking breach of contract damages against CGH for failure to comply with the terms of the contract between the two entities. PCH, as manager of CGH, had an affirmative duty to act in good faith on behalf of CGH, and have breached that duty by refusing

to compensate the vendor and have subjected CGH to potential damages of more than 4.4 million dollars. A copy of that complaint is attached hereto as Exhibit C.

13. Peoples Choice Hospital was required under the agreement to act in good faith on behalf of CGH. On or about April 7, 2016, Peoples Choice Hospital entered into contracts with CGH which were not approved by the Board of Directors, for the provision of lab management and billing services even though CGH already had an in house billing agent and lab management staff. Upon information and belief, supported by the affidavit of former PCH employee, Jorge Perez, PCH has not provided any services under the billing and lab management contract, as those services are already provided through in house billing and staff. On May 13, 2016, a wire transfer from CGH was initiated in the amount of \$750,000.00. On June 16, 2016, a wire transfer from CGH was initiated in the amount of \$506,430.46. Copies of the wiring instructions, invoices, and email communications regarding the same as well as the affidavit of Jorge Perez are attached hereto as composite Exhibit D.

14. The conduct of the Defendant, which the Plaintiff seeks to enjoin, violates the rights of Plaintiff as well as the public at large. CGH is a publicly funded hospital, and the actions of PCH not only place taxpayer dollars at risk, but also rise to a level of criminal theft.

15. Plaintiff will suffer irreparable injury, loss and damage if the conduct of the Defendant is not enjoined. If PCH is allowed to continue operating CGH's bank accounts and the hospital, the public trust, public documents, and public dollars are at further risk for theft and damage.

16. Plaintiff has no adequate remedy at law. Since the acts of the Defendant will continue into the future unless enjoined, the Plaintiff has no adequate remedy at law for damages

INJUNCTIVE RELIEF REQUESTED

17. Plaintiff requests that a temporary injunction be issued, without notice to Defendant, to prevent immediate and irreparable harm to Plaintiff. Plaintiff submits the attached affidavit in support of the request for an ex parte hearing.

18. On final trial on the merits, Plaintiff requests that the Court grant the following injunctive relief:

A. Restraining PCH from access to CGH's accounts, specifically at Peoples Bank of Graceville, but not limited to the same.

B. Restraining PCH from access to the administrative, medical, emergency,

clinic, and other offices of Campbellton Graceville Hospital

C. Removing from signing authority for CGH at Peoples Bank of Graceville Seth Guterman, Chris Alise, Jorge Perez, and Edith Mears, and reinstating the Chairman of the Board, Pat Pelham, as signatory to the account.

ATTORNEYS' FEES

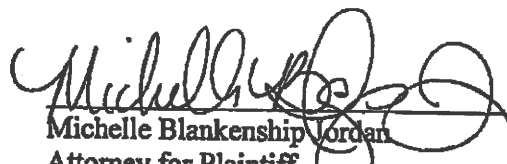
20. Plaintiff, Campbellton Graceville Hospital Corporation, a Florida Corporation has employed Michelle Blankenship Jordan for representation in this action, and Plaintiff has agreed to pay a reasonable attorney fee to Michelle Blankenship Jordan.

21. Under the terms of the written agreement at issue in this action, which is attached to this Complaint as Exhibit A, Plaintiff is entitled to recover reasonable attorneys' fees incurred in connection with this action.

WHEREFORE, Campbellton Graceville Hospital Corporation, Plaintiff requests that:

A. A temporary injunction issue without notice to Defendant, enjoining Defendant from directly or indirectly accessing any and all bank accounts of Campbellton Graceville Hospital.

B. Defendant be cited to appear and answer herein, that on final trial hereof injunctive relief be granted as requested herein and Plaintiff be awarded costs and reasonable and necessary attorney's fees, and that the Court grant such other and further relief that may be awarded at law or in equity.


Michelle Blankenship Jordan
Attorney for Plaintiff
Florida Bar Number: 70836
Jordan Peskin, P.A.
1512 Highway 90
Chipley, Florida 32428
Telephone: (850) 638-9689
Fax: (877) 208-3898
E-Mail: service@jordanpeskin.com
Secondary E-Mail: stephanie@jordanpeskin.com

**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
IN AND FOR JACKSON COUNTY, FLORIDA**

Case No.: _____
Division: Civil

**CAMPBELLTON GRACEVILLE HOSPITAL
CORPORATION, a Florida Non-Profit Corporation**

Plaintiff,

vs.

**PEOPLES CHOICE HOSPITAL, a Foreign
Corporation**

Defendant

_____ /

CERTIFICATION BY ATTORNEY

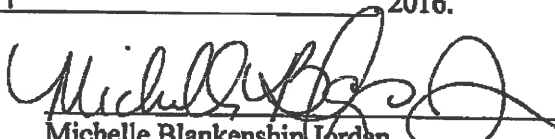
I, Michelle Blankenship Jordan, am the attorney of record for Campbellton Graceville Hospital Corporation, a Florida Non-Profit Corporation, Plaintiff, in this cause, and I am making this certification as provided by Rule 1.610(a)(1)(B) of the Florida Rules of Civil Procedure.

I have engaged in the following efforts to provide notice: I have emailed and notified PCH in person on numerous occasions that the financial records of the hospital must be disclosed. PCH has notified me in writing that they will not comply with my requests.

The reasons that notice should not be required before the issuance of a temporary injunction are as follows: PCH has caused great financial harm to CGH, a publicly funded hospital, and upon information and belief, PCH intends to further deplete the accounts of the hospital in light of the pending litigation in Broward County.

Under penalties of perjury, I declare that I have read the foregoing and that the facts stated in it are true to the best of my knowledge.

SIGNED on June 21 2016.



Michelle Blankenship Jordan
Attorney for Plaintiff, Campbellton Graceville
Hospital Corporation, a Florida Non-Profit
Corporation

CONSULTING AGREEMENT

THIS CONSULTING AGREEMENT (this "Agreement") is entered into this 11th day of May, 2015 (the "Effective Date"), by and between and Campbellton-Graceville Hospital Corporation, a Florida not-for profit corporation ("CGH"), and People's Choice Hospital, LLC, a Delaware limited liability company ("PCH").

RECITALS

WHEREAS, CGH is a nonprofit, tax exempt 501(c)(3) organization and is the current owner, operator, licensee of a critical access hospital, commonly known as Campbellton-Graceville Hospital (the "Hospital", which term for purposes of this Agreement shall exclude the Campbellton-Graceville Hospital Physician's Clinic (the "Clinic")), and CGH is governed by a Board of Directors (the "Board"), and licensed by the Florida Department of Health as a critical access hospital ("CAH") and desires to enter into this Agreement and have PCH assist it in the oversight and operation of the Hospital as of the Effective Date;

WHEREAS, PCH is experienced in the provision of hospital and healthcare administrative, managerial and other support services and has the expertise to manage and operate critical access hospitals such as the Hospital and desires to enter into this Agreement as of the Effective Date;

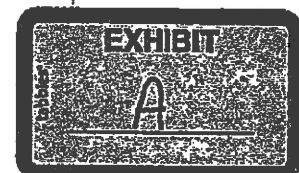
WHEREAS, CGH has experienced severe financial and other operational difficulties in providing hospital and related healthcare services to its community;

WHEREAS, Without financial and operational assistance, CGH cannot provide the health care services needed in the Campbellton-Graceville Hospital Taxing District and the surrounding areas (the "CGH Area");

WHEREAS, By entering into this Agreement, CGH seeks to stabilize and improve access to inpatient and outpatient hospital and related healthcare services provided by the Hospital for the CGH Area and to establish an efficient, cost effective management structure for the delivery of these services;

WHEREAS, CGH wishes to engage PCH to provide the Hospital with certain healthcare management and other services as set forth below, and CGH wishes to provide these services, consistent with and in furtherance of CGH's charitable purposes;

WHEREAS, CGH desires to sell or lease the Hospital to PCH or another entity qualified to operate the Hospital and PCH desires to purchase or lease the Hospital subject to the requirements of Section 155.40 of the Florida Statute, including approval by the Secretary of Health Care Administration, governing the sale or lease of a county, district or municipal hospital;



WHEREAS, During the term of this Agreement, PCH and CGH intend to discuss other potential affiliation and support options between the Parties to stabilize and improve the Hospital's viability and the healthcare services available to the CGH Area;

WHEREAS, The Parties recognize and affirm that Hospital's continued provision of hospital and related healthcare services to the CGH Area and PCH's services to the Hospital as described herein are in furtherance of and integral to the performance of CGH's charitable purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986, as amended (the "Code"); and

WHEREAS, PCH and CGH have determined a fair market value for the services to be rendered by PCH that will allow the Parties to establish a relationship permitting each to devote its skills and expertise to appropriate responsibilities and functions.

NOW THEREFORE, in consideration of the premises and the mutual promises and covenants contained herein, CGH and PCH do hereby agree as follows:

1. **Term.** This Agreement shall begin on the Effective Date and shall end on the tenth anniversary after the Effective Date, unless terminated earlier pursuant to the terms of this Agreement (the "Term"). Thereafter, the Agreement shall renew automatically for additional 5 year terms unless one party hereto provides notice to the other party hereto of its intention not to renew this Agreement at least 90 days before the end of the applicable Term.

2. **Duties of PCH.** CGH hereby retains PCH to assist CGH in the operation of the Hospital. In accordance with the foregoing, following the Effective Date, PCH shall have the responsibility for operating the Hospital on a day-to-day basis, including, but not limited to:

2.1 Overseeing standards of operation, quality of service, financial procedures and any and all other operational matters of the Hospital.

2.2 Establishing, maintaining, revising and administering of the Hospital's overall charge structure.

2.3 Hiring, discharging, supervising and managing all employees of the Hospital. CGH acknowledges and understands that, upon review of staffing levels and operational needs of the Hospital, PCH may recommend making substantial changes in personnel levels at the Hospital, and CGH agrees to cooperate with PCH in that effort, as necessary and appropriate.

2.4 Pay the Hospital's payroll, trade accounts, and all other obligations. CGH acknowledges and agrees that it may be necessary to the survival of the Hospital that significant changes occur in purchasing methodologies and that significant cuts in expenses may be necessary.

2.5 Implement (i) procedures to credential additional doctors, (ii) changes that will improve the number of patients admitted to the Hospital, (iii) changes to expand the number of surgical and invasive procedures performed at the Hospital, including increasing out-patient diagnostic tests, elective procedures, and elective surgeries, and (iv) providing tele medicine and access to physician specialists, including cardiologists, neurologists, psychologists, surgeons and oncologists.

2.6 Establishing, maintaining, revising and administering the Hospital's accounting procedures, including assisting with the issuance of bills for services and materials furnished by the Hospital and collecting accounts and moneys owed to the Hospital by implementing controls to track patients from the minute they are admitted to having an invoice ready when they are discharged.

2.7 Overseeing the Hospital's accounts, except the Tax Account (as defined herein), in such banks and other financial institutions as the Hospital may from time to time select with such balances therein as PCH shall from time to time deem appropriate, taking into account the operating needs of the Hospital and the disbursements from such accounts of such amounts of the Hospital's funds as PCH shall from time to time determine appropriate in the discharge of its responsibilities under this Agreement.

2.8 Managing all purchases and leases of equipment, supplies and all materials and services which PCH shall deem to be necessary in the operation of the Hospital. To the extent available and advisable, and subject to applicable law and availability, PCH will attempt to offer the Hospital the right to participate in PCH's national purchasing contracts. Payment for services, supplies or materials shall not exceed the amount ordinarily paid for such services, supplies or materials in the area where the services are rendered or the supplies or materials furnished. Any purchase agreement that will obligate the Hospital beyond the Term of this Agreement, and any purchase or lease of capital equipment, shall be subject to approval of the Board.

2.9 Negotiating, contracting for and supervising the maintenance and repairs of the physical property and equipment of the Hospital as shall be necessary or desirable to keep and to maintain same in good working order and condition. In this regard, PCH shall be empowered to negotiate, enter into, terminate and administer on behalf of the Hospital, contracts for services, maintenance and repair of the physical plant of the Hospital and with other persons and organizations necessary for provision of ongoing services to the Hospital.

2.10 Implementing, on behalf of the Hospital, the marketing efforts approved by the Board.

2.11 Coordinating, in consultation with the Board, all legal matters and proceedings related to the Hospital.

2.12 Additional services as the Parties may agree to in writing.

2.13 In providing Management Services, PCH shall have the authority to, subject to the approval of the CGH Board prior to the effective date of the Bylaws Change (as defined herein) and thereafter without approval of the CGH Board:

a borrow money from a bank or other lending institution, incur or guarantee any debt or encumber any Hospital property (with the understanding that such actions do not include capitalized leases or other arrangements provided in Subsection 2.13(b)) of this Agreement, subject to Florida law; or

b. enter into any contract, obligation, capitalized lease, conditional or installment sales agreement, or any operating lease, without prior approval by the CGH Board.

c. sign all checks and have complete access to CGH's bank accounts, except the Tax Account. For the avoidance of doubt, PCH shall have complete control of CGH's bank accounts (except the Tax Account) and may, in its sole discretion, provide access to such accounts to CGH's employees.

Prior to the effective date of the Bylaws Change, the CGH Board shall promptly take all actions described in this paragraph 2.13 as soon as possible as permitted by CGH's bylaws and applicable state law.

2.14 PCH shall be responsible for funding all payroll and employee benefit obligations accruing after on or April 26, 2015, through the termination of this Agreement (the "Employee Costs") (excluding any and all Employee Costs related to the Clinic). Any amounts advanced by PCH to pay the Employee Costs shall be secured by a security interest and first priority lien on all of CGH's real and personal property (except the ad valorem taxes and the Tax Account).

2.15 For the avoidance of doubt, PCH will not be providing any services to the Clinic and CGH acknowledges and agrees that it shall remain and at all times shall be solely responsible for operating, managing and administering the Clinic to the extent that the Clinic remains open or until CGH sells the Clinic.

In performing its obligations under this Section and this Agreement, PCH shall act in good faith. PCH shall devote such time as is necessary for the performance of the duties and obligations provided for herein. Nothing herein contained shall in any way prohibit, limit or restrict PCH or any of its managers, directors, officers or employees from performing or engaging in any other type of occupation, activity or service including such activities or services which may be competitive with the business operations of CGH.

3. CGH Obligations

3.1 On or prior to the Effective Date, CGH shall obtain a loan (the "Loan") from a lender (the "Lender") to resolve all outstanding payroll and employee benefit

obligations arising on or before April, 25, 2015, including, but not limited to, any outstanding "trust fund" taxes. The principal amount shall be approximately \$465,000 and will accrue interest at an estimated interest rate of 5% per annum. The Loan shall be secured by all ad valorem taxes collected by CGH, which taxes shall be deposited into a new segregated bank account (the "Tax Account") to be established by CGH. The Loan shall be repaid only through the proceeds of the ad valorem taxes deposited into the Tax Account. For the avoidance of doubt, PCH shall have no rights to the Tax Account until the Loan has been repaid.

3.2 During the term of this Agreement, CGH shall fully cooperate with PCH in PCH's provision of the services described in this Agreement and will not interfere with PCH's efforts to manage the Hospital.

3.3 CGH shall: (a) continue to operate the Hospital and any related facilities; (b) maintain: (i) licensure as a CAH under Florida law; (ii) its certificate of good standing under Florida law and (iii) certification as a Medicare and Florida Medicaid provider; and (c) continue to own the following items and provide the following services for the Hospital's operations, as applicable, consistent with CGH-approved budgets:

- (i) All facilities, furnishing, supplies and equipment required for the Hospital's operations.
- (ii) CGH shall employ or contract with all personnel for the Hospital's operations, except as otherwise agreed to by CGH and PCH.
- (iii) CGH shall be responsible for the direct provision of such services and activities for the Hospital's operations except for the services to be provided by PCH under this Agreement.

3.4 During the term of this Agreement, the CGH Board shall invite and allow the PCH CEO or his or her designee (the "PCH Board Representative") to attend all meetings of the CGH Board, including all executive sessions, except when specifically excluded by the Board for just cause, provided that the minutes of any such executive session shall be provided to PCH within two business days of any such meeting that PCH is excluded from. In connection therewith, the Parties agree and acknowledge that the purpose of the presence of the PCH Representative at the CGH Board meetings is to act as a liaison and facilitate communications between the Parties. The PCH Representative shall attend CGH Board meetings in a representative capacity on behalf of PCH and as an invitee of the CGH Board and shall have no duty to CGH.

3.5 The CGH Board may not change any third-party individuals or entities providing CGH with accounting or tax advice or change CGH's fiscal year without approval of PCH.

3.6 As soon as possible after the date hereof, CGH shall take all actions necessary to amend its bylaws to give PCH the right to take all actions under this agreement, including, but not limited to, those described in Section 2.13 of this Agreement with the approval of CGH Board (the "Bylaws Change").

3.7 CGH shall provide PCH immediate access to all unbilled patient account records.

PCH shall not be liable to CGH for any failure or delay caused by events beyond PCH's control, including, without limitation, CGH's failure to furnish necessary information, sabotage, failure or delays in transportation or communication, failures or substitutions of equipment, labor disputes, accidents, shortages of labor, fuel, raw materials or equipment, or technical failures.

4. Personnel.

4.1 During the Term hereof, PCH shall provide supervision of the Chief Executive Officer ("CEO"), the Chief Financial Officer ("CFO") (if any) and the Chief Nursing Officer ("CNO") (if any) of the Hospital. Such persons shall report to PCH.

4.2 CGH shall pay the salary, payroll taxes and fringe benefits of the CEO, CFO and CNO in the same manner that it was prior to the Effective Date. For purposes of this Agreement, the CEO, CFO and CNO shall be referred to as the "Key Personnel."

4.3 The term "fringe benefits" may include the following: employer-furnished premiums for group health insurance, group long-term disability insurance, federal and state required programs, term life insurance, accidental death and dismemberment insurance, retirement plan contributions and such other benefits that may become standard for administrative personnel employed by CGH.

4.4 All personnel providing services to the Hospital (other than PCH's employees providing consulting services hereunder) shall be employees or independent contractors of CGH, and not employees of PCH. CGH shall be responsible for the salaries, payroll taxes, fringe benefits and other expenses related to such employees and independent contractors.

5. Loan. The Parties anticipate that CGH may desire to obtain a loan or other financial support from PCH (a "Loan"). CGH agrees to execute the loan documents, and provide the necessary collateral, related to such Loan.

6. Communications & Reports. PCH shall furnish monthly reports and shall give specific answers to questions upon which information is desired from time to time relative to income, assets, liabilities, contracts, operation and condition of the Hospital to CGH's board of directors. PCH shall promptly comply with any and all public records requests subject to Chapter 119, Florida Statute.

7. Consulting Fee and Reimbursement of Expenses.

7.1 In consideration of the performance of its duties hereunder, PCH shall be entitled to receive a monthly fee (the "Consulting Fee") in the amount of \$30,000 per month, earned on the first day of the month following the Effective Date, and payable on the earlier of (i) the 10th day of each the month following the month the Consulting Fee is earned or (ii) the termination of this Agreement.

7.2 CGH shall timely reimburse PCH for the costs and expenses incurred by PCH in the provision of services by PCH under this Agreement ("Service Costs"). Subject to the foregoing, Service Costs shall include, to the extent not directly paid by CGH: (a) employment expenses (as determined and allocated by PCH), travel, food and lodging for PCH personnel providing PCH services; and (b) any other direct expenses incurred by PCH on behalf of CGH.

7.3 CGH's obligation to pay the Employee Costs, Consulting Fee, the Service Costs, the Indemnity Obligations (as defined herein) and any other fees or costs incurred by PCH under or related to this agreement, including, but not limited to, reasonable attorney fees and expenses incurred by PCH under or in connection with this agreement (collectively, the "CGH Obligations") shall be secured by, and CGH hereby grants PCH a security interest in substantially all of its assets (including, but not limited to receivables of whatever source or nature, but excluding the ad valorem taxes and the Tax Account) and to be further evidenced by (i) that certain Security Agreement (the "Security Agreement") executed by CGH in favor of PCH, covering all of the collateral (real and personal property) (except the ad valorem taxes and the Tax Account) owned by CGH more particularly described therein, (ii) any other document, agreement and/or instrument executed by CGH from time to time which recites that the security interest granted thereby secures payment of the CGH Obligations (each a "Security Instrument" and collectively with the Security Agreement, the "Security Instruments"). CGH agrees to cause each Security Instrument to be executed, acknowledged, recorded/filed (as appropriated) and amended, and to take any and all other steps necessary, in order to adequately secure the repayment of the CGH Obligations. CGH hereby authorizes PCH to file any UCC financing statements or other documents it deems necessary to record its security interest in the foregoing.

8. Termination.

8.1 Termination Without Cause. PCH may terminate this Agreement without cause upon sixty (60) days written notice to CGH, which notice shall state the intended date of termination.

8.2 Event of Default. If an Event of Default occurs under Section 9, this Agreement can be terminated pursuant to the terms and conditions set forth in Section 9.

8.4 Immediate Termination.

- a. PCH may immediately terminate this Agreement if the effective date of the Bylaws Change has not occurred on or before May 22, 2015;
- b. Either Party may immediately terminate this Agreement upon:
 - i. CGH's loss of its license as a healthcare institution, its status as an organization described in Section 501(c)(3) of the Code, or its certification as a Medicare or Medicaid provider;
 - ii. The other Party's conviction of a crime related to healthcare or a felony; or the exclusion of the other Party or its management, corporate director, or officer from participation in any federal healthcare program (as evidenced by being listed on the Office of the Inspector General's excluded parties list) or from participation in government contracts by the General Management Services Administration; or

8.5 Termination of this Agreement by CGH shall not affect CGH's obligations to pay PCH any and all amounts due it. If PCH terminates this Agreement for any reason, all amounts due PCH from CGH (including, without limitation but by way of example, any amount due in connection with the Loan) shall be immediately due and payable in full.

8.6 Upon termination of this Agreement and payment in full of the CGH Obligations, each Party shall immediately deliver or cause its employees or agents to deliver in good condition all property in its possession that belongs to the other Party.

8.7 After the delivery of property and payment in full as contemplated above, neither Party shall have any further obligations under this Agreement, except as otherwise set forth herein.

9. Default.

9.1 Events of Default.

- (a) With respect to PCH, it shall be an event of default ("PCH Event of Default") hereunder:
 - (i) if PCH shall fail to keep, observe or perform any material agreement, term or provision of this Agreement to be kept, observed or performed by it, and such default shall continue for a period of 10 days after notice thereof by the Board to PCH, or, if such default is not subject to cure within 10

days, such longer period as may be required to effect a cure, provided that PCH initiates curative action within such 10 day period and thereafter is diligently, continuously and in good faith pursuing cure; or

- (ii) if PCH is dissolved or liquidated, or shall apply for or consent to the appointment of a receiver, trustee or liquidator of it or all or a substantial portion of its assets, files a voluntary petition in bankruptcy, makes a general assignment for the benefit of creditors, files a petition or other document seeking reorganization or arrangement with creditors or to take advantage of any insolvency law, or if an order, judgment or decree shall be entered by any court of competent jurisdiction, on the application of a creditor, adjudicating PCH as bankrupt or insolvent or approving a petition seeking reorganization of PCH or appointing a receiver, trustee or liquidator for PCH or all or a substantial part of its assets, and such order, judgment or decree shall continue unstayed and in effect for any period of 60 consecutive days.

(b) With respect to CGH, it shall be an event of default ("CGH Event of Default") hereunder:

- (i) if CGH shall fail to make or cause to be made any payment to PCH required to be made hereunder, or fail to make any payment pursuant to any other agreement between the parties and such failure shall continue for ten days after written notice thereof shall have been given to the Board;
- (ii) if CGH shall fail to keep, observe or perform any material agreement, term or provision of this Agreement to be kept, observed or performed by it, or otherwise fails to implement any PCH recommendation, and such default or failure shall continue for a period of 10 days after written notice thereof by PCH to the Board or, if such default is not subject to cure within 10 days, such longer period as may be required to effect a cure, provided that CGH initiates curative action within the 10 day period and thereafter is diligently, continuously and in good faith pursuing cure; or
- (iii) if CGH should demonstrate an unreasonable unwillingness to cooperate with PCH's personnel, or shall actively undermine PCH's personnel, and such unreasonable unwillingness or undermining continues for 10 days after written notice thereof has been given to the Board.

9.2 Remedies Upon Default.

- (a) If any CGH Event of Default shall occur and be continuing, PCH may, in addition to any other remedy available to it at law or in equity on account of such CGH Event of Default, forthwith terminate this Agreement, and neither PCH nor CGH shall have any further

obligations whatsoever under this Agreement, except pursuant to the indemnity provisions of this Agreement; but PCH shall immediately be entitled to receive payment of all amounts theretofore unpaid but earned to date prorated through the termination date pursuant to the terms hereof.

(b) If any uncured PCH Event of Default shall occur and be continuing, CGH may, in addition to any other remedy available to it at law or in equity on account of such uncured PCH Event of Default, forthwith terminate this Agreement, and neither party shall have any further obligation whatever under this Agreement, except pursuant to the indemnity provisions of this Agreement, provided that PCH shall immediately be entitled to receive payment of all amounts theretofore unpaid but earned to date prorated through the termination date, which shall be due to PCH on the termination date pursuant to the terms hereof.

(c) If either party hereto brings an action because of any PCH Event of Default or CGH Event of Default hereunder, the nonprevailing party agrees to pay all reasonable costs and attorneys' fees (and disbursements) incurred by the prevailing party in connection with such action.

10. Administrative Services Only. The parties expressly intend that the services performed by PCH hereunder shall be administrative services only. Notwithstanding any other provision of this Agreement to the contrary, in no event shall PCH have any responsibility whatsoever for professional medical or clinical decisions of the Hospital in connection with, or related to, health care services rendered by the Hospital to their patients.

11. Representations and Warranties of PCH. PCH represents and warrants to CGH as follows:

(a) PCH is a Delaware limited liability company duly organized, validly existing and in good standing, and will have during the Term personnel in its employ with the expertise to render the services set forth in this Agreement.

(b) PCH has the power and the authority to execute and deliver this Agreement, and to perform its obligations hereunder, and the execution and delivery of this Agreement by PCH and the performance of its obligations hereunder have been duly and validly authorized by PCH and no other proceedings on the part of PCH are necessary to authorize this Agreement or the performance of PCH's obligations hereunder.

(c) This Agreement has been duly and validly executed and delivered by PCH, and this Agreement is, and when executed and delivered by PCH will be, the legal, valid and binding agreement of PCH, enforceable against PCH in accordance with its terms.

(d) PCH is not an "excluded provider" under the Medicare, Medicaid, or other government-sponsored health program.

(e) Neither the execution and delivery of this Agreement by PCH nor the performance of its obligations hereunder and of the transactions contemplated hereby will (i)

constitute a breach or a default under (A) the certificate of formation or operating agreement of PCH, (B) any applicable law, or any applicable rule, judgment, order, writ, injunction or decree of any court, (C) any applicable rule or regulation of any administrative agency or other governmental authority or (D) any agreement, indenture, instrument or contract to which PCH is now a party or by which it is bound; (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which PCH is a party or by which its assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained; or (iii) violate any order, writ, injunction or decree applicable to PCH or any of its assets, excluding from the foregoing clauses (i) and (ii) such defaults, rights and violations which, in the aggregate, would not have a material adverse effect on the business, operations or financial condition of PCH. PCH is not required to submit any notice, report or other filings or registration with any governmental or regulatory authority in connection with the execution, delivery or performance of this Agreement or to obtain any waiver, consent, approval or authorization by or from any governmental or regulatory authority in such connection.

(f) Neither PCH, any affiliate of PCH nor any officers, directors or members of PCH or any PCH affiliate is related to, affiliated in any way with, employs or otherwise has a compensation interest with CGH, any CGH affiliate or any officer, director or member of CGH or any CGH affiliate, except as otherwise permitted under this Agreement or disclosed in writing to CGH on or before the Effective Date of this Agreement. During the term of this Agreement, PCH will promptly notify CGH in writing of any change in this representation and warranty.

12. Representations and Warranties of CGH. CGH represents and warrants to CGH as follows:

(a) CGH is a Florida section 501(c)(3) not-for-profit corporation duly organized, validly existing and in good standing.

(b) CGH has the power and authority to execute and deliver this Agreement, and to perform its obligations hereunder, and the execution and delivery of this Agreement by CGH and the performance of its obligations hereunder have been duly and validly authorized by CGH and no other proceedings on the part of CGH are necessary to authorize this Agreement or the performance of CGH's obligations hereunder.

(c) This Agreement has been duly and validly executed and delivered by CGH, and this Agreement is, and when executed and delivered by CGH will be, the legal, valid and binding agreement of CGH, enforceable against CGH in accordance with its terms.

(d) Neither the execution and delivery of this Agreement by CGH nor the performance of its obligations hereunder and of the transactions contemplated hereby will (i) constitute a breach or a default under (A) the certificate of organization of CGH or the Bylaws, (B) any applicable law, or any applicable rule, judgment, order, writ, injunction or decree of any

court, (C) any applicable rule or regulation of any administrative agency or other governmental authority or (D) any agreement, indenture, instrument or contract to which CGH is now a party or by which it is bound; (ii) result in a default (or give rise to any right of termination, cancellation or acceleration) under any of the terms, conditions or provisions of any note, bond, mortgage, indenture, agreement, lease or other instrument or obligation to which CGH is a party or by which its assets may be bound, except for such defaults (or rights of termination, cancellation or acceleration) as to which requisite waivers or consents have been obtained; or (iii) violate any order, writ, injunction or decree applicable to CGH or any of its assets, excluding from the foregoing clauses (i) and (ii) such defaults, rights and violations which, in the aggregate, would not have a material adverse effect on the business, operations or financial condition of CGH. CGH is not required to submit any notice, report or other filings or registration with any governmental or regulatory authority in connection with the execution, delivery or performance of this Agreement nor to obtain any waiver, consent, approval or authorization by or from any governmental or regulatory authority in such connection.

(e) Except as otherwise disclosed to PCH, CGH has no knowledge of: (a) any material claims, suits, investigations inquiries, reviews or proceedings pending or threatened against PCH, or any pending or threatened proceedings before any court, arbitration panel, agency or other governmental or administrative authority; or (b) any judgments, decrees, writs, injunctions or orders against CGH by any governmental, administrative or judicial authority.

(f) Neither CGH, any affiliate of CGH nor any officers, directors or members of CGH or any CGH affiliate is related to, affiliated in any way with, employs or otherwise has a compensation interest with PCH, any PCH affiliate or any officer, director or member of PCH or any PCH affiliate, except as otherwise permitted under this Agreement or disclosed in writing to PCH on or before the Effective Date of this Agreement. During the term of this Agreement, CGH will promptly notify PCH in writing of any change in this representation and warranty.

13. **Mutual Representation.** The Parties expressly represent and warrant to one another that neither PCH nor CGH, nor any individual with an ability to control such entities (including immediate family or household members) nor any of their employees or agents have been placed on the sanctions list issued by the Office of the Inspector General at the Department of Health and Human Services pursuant to the provisions of 42 U.S.C. § 1320a-7, or have been excluded from government contracts by the General Management Services Administration. Further, if during the term of the Agreement, either Party or any of their related individuals noted above is placed on the sanctions list or otherwise excluded from participation in government contracts, that Party shall immediately notify the other Party in writing of the event and such notices shall contain reasonably sufficient information to allow the Party receiving notice to determine the nature of the sanction. Either Party shall have the right to terminate this Agreement immediately by written notice if the other Party or any of its related individuals set forth above, is placed on the sanctions list or banned from government contracts by the General Management Services Administration.

14. Insurance

14.1 CGH shall secure and maintain comprehensive (a) general liability coverage, including blanket contractual liability, automobile insurance, and operations insurance, and (b) directors and officers coverage each with minimum limits of liability as required by CGH in form and substance acceptable to PCH. To the extent required by PCH, CGH shall also add PCH as an additional insured to PCH's insurance policies delineated above and any other insurance requested by PCH.

14.2 CGH shall secure and maintain (a) comprehensive general liability coverage including blanket contractual liability, automobile insurance and operations insurance and (b) directors and officers coverage each with minimum limits of liability of \$1 million per occurrence \$3 million aggregate for PCH services provided under this Agreement.

14.3 PCH and CGH agree to provide each other upon request a certificate of such insurance and shall name each other as additional insureds on the directors and officers coverage.

14.4 Each Party shall maintain this coverage throughout the term of the Agreement and shall provide the other Party with a thirty (30) day advance written notice of the expiration cancellation or substantial change in such coverage.

14.5 It is expressly understood that CGH is an agency of the State of Florida and CGH represents and warrants that it is granted sovereign immunity as to medical malpractice claims.

15. Fraud and Abuse/Stark Law, Internal Revenue Code, Compliance

15.1 Fraud and Abuse/Stark Law. It is the intent and good faith belief of the parties hereto that this Agreement complies with the Anti-Kickback Statute and the Stark Law (42 U.S.C. §1395nn (a)(1)(A)) (the "Stark Law") and does not in any manner violate either the Anti-Kickback Statute or Stark Law. Any compensation arrangements between PCH and CGH shall comply with the Anti-Kickback Statute. In the event of any dispute as to the fair market value of such services, PCH, at its cost, will engage the services of an independent valuation firm skilled and experienced in health care compensation matters. The determination of such independent analysis shall be binding on PCH. PCH shall maintain documentation of the payment or distribution of the Consulting Fee, as defined herein. Subsequent to the execution of this Agreement, should any provision of this Agreement be deemed by either party to be contrary to the provisions of said Anti-Kickback Statute, Stark Law, regulations, or the Safe Harbor regulations, then the parties agree to attempt in good faith to renegotiate the problematic provision to the mutual satisfaction of the parties. In the event the parties are not able to mutually agree on modification of the problematic provision, then either party may terminate this Agreement upon thirty (30) days written notice to the other party if the

terminating party has a good faith belief that the problematic provision creates an unfavorable exposure under said Anti-Kickback Statute, Stark Law, regulations or Safe Harbor regulations.

15.2 Disclaimer Regarding Referrals. It is specifically acknowledged and agreed by the parties hereto that:

(a) That due to the fact that PCH is owned by a physician, Seth Guterman, MD, any fees that PCH shall receive pursuant to this Agreement from CGH will not in any way require Dr. Guterman, and is not contingent upon Dr. Guterman's admission, recommendation, referral, or any other form of arrangement for utilization by his patients for any item or service offered by CGH.

(b) Nothing in this Agreement shall be construed to prohibit or in any way limit Dr. Guterman's ability to obtain and maintain membership on the medical staff of any other health care facility or hospital or to admit patients to another facility or hospital.

15.3 Internal Revenue Code. The parties intend and in good faith believe that this Agreement does not in any way violate the Internal Revenue Code, specifically including the proscriptions against private inurement and private benefit. In the event that either party believes that any provision of this Agreement is contrary to the Internal Revenue Code, or any regulation, General Counsel Memorandum or other court or IRS interpretation of said Code, then the parties agree to reform this Agreement to eliminate the problematic provision. In the event the parties are unable to reform the Agreement, then either party may terminate this Agreement upon thirty (30) days written notice to the other party.

15.4 Corporate Compliance Program. PCH agrees to conduct its activities in accordance with all laws and regulations applicable to the services required hereunder. PCH shall comply with the CGH's Corporate Compliance Program with respect to the provision of such services. PCH shall provide annual compliance training to key personnel of PCH with respect to the principles of ethical and legal conduct of business.

16. HIPPA Compliance

16.1 Definitions. For the purposes of this Section 16, the following capitalized terms shall be given the following meanings:

- (a) "Disclose and "Disclosure" mean, with respect to Protected Health Information, the release, transfer, provision of access to, or divulging in any other manner of Protected Health Information outside of PCH's internal operations or to other than its employees.
- (b) "Protected Health Information" or "PHI" means information, including demographic information that (i) relates to the past, present or future physical or mental health or condition of an individual, the provision of

health care to an individual, or the past, present or future payment for the provision of health care to an individual; (ii) identifies the individual (or for which there is a reasonable basis for believing that the information can be used to identify the individual); and (iii) is received by PCH from or on behalf of CGH, or is created by PCH for CGH, or is made accessible to PCH by CGH.

- (c) "Use" or "Uses" mean, with respect to Protected Health Information, the sharing, employment, application, utilization, examination, or analysis of such Protected Health Information within PCH's internal operations.

16.2 Warranty. PCH warrants that all the services to be provided herein, whether by it directly or by approved sub-contractors of PCH, shall fully comply with all applicable federal, state and local statutes, rules and regulations, and that it shall be deemed a material breach of this Agreement by PCH if it shall fail to observe this requirement. If such a breach is not cured in accordance with this Agreement, CGH may terminate this Agreement without penalty and without limiting any other rights and remedies set forth in this Agreement.

16.3 Business Associate Assurances. CGH and PCH intend to fully comply with the final privacy regulations promulgated under Health Insurance Portability and Accountability Act of 1996 ("HIPAA") with respect to PHI used and disclosed pursuant to this Agreement. Insofar as CGH is required to comply with the HIPAA final privacy regulations and insofar as PCH has access to, has been provided with, or will be creating PHI of CGH's patients or employees, PCH warrants and agrees to comply with the provisions of this Section 16.3:

- (a) PCH shall Use and Disclose PHI solely as necessary for performance of the services hereunder. PCH shall not Use or Disclose PHI for any other purposes.
- (b) PCH warrants that it shall implement and maintain appropriate safeguards to prevent the Use or Disclosure of PHI in any manner other than as permitted by this Agreement.
- (c) PCH will report to the CGH's Director of Compliance any use or disclosure of PHI not permitted by this Agreement within one business day of PCH learning of such use or disclosure. PCH also will report to CGH any Security Incident of which it becomes aware that affects electronic PHI created, received, maintained, or transmitted, if any, on behalf of CGH, within one business day of PCH learning of such Security Incident. Any report shall include the names of persons with PHI disclosed or subject to a security incident, description of the facts surrounding the breach, the type of PHI involved, the steps the individuals need to take to protect them themselves, or what the PCH is doing to

investigate, mitigate and protect against future breaches, and contact information for business associate.

- (d) PCH agrees to make its internal practices, books and records relating to the Use and Disclosure of PHI available to the Secretary of the federal Department of Health and Human Services for purposes of determining CGH's compliance with HIPAA and the privacy regulations promulgated there under. PCH shall immediately notify CGH of any requests made by the Secretary and provide CGH with copies of any documents produced in response to such request.
- (e) PCH shall: (i) make PHI specified by CGH available to the individual(s) identified by CGH as being entitled to access and copy that PHI and (ii) make PHI available to CGH for the purpose of amendment and incorporating such amendments into PHI. PCH shall provide such access and incorporate such amendments within the time and in the manner specified by CGH.
- (f) Upon CGH's request, PCH shall provide to CGH an accounting of each Disclosure made by PCH or its employees, agents, representatives, or subcontractors of PHI that was in the possession of PCH to enable PCH to provide services under this Agreement, other than Disclosures made for purposes of PCH's (including its Member Designated Physicians) or CGH's treatment, payment, or health care operations for which no accounting is required. Any accounting provided by PCH under this Section 16.3(f) shall include: (i) the date of the Disclosure; (ii) the name, and address, if known, of the entity or person who received the PHI; (iii) a brief description of PHI disclosed; and (iv) a brief statement of the purpose of the Disclosure. For each Disclosure that could require an accounting under this Section 16.3(f), PCH shall document the information specified in (i) through (iv), above, and shall securely retain this documentation for six (6) years from the date of the Disclosure.
- (h) Upon termination or expiration of this Agreement, PCH shall either return or destroy, in CGH's sole discretion and in accordance with any instructions by CGH, all PHI in the possession or control of PCH or its agents or subcontractors. However, if CGH determines that neither return nor destruction of PHI is feasible, PCH may retain PHI provided that PCH (i) continues to comply with the provisions of this Section 16.3(h) for as long as it retains PHI and (ii) limits further Uses and Disclosures of PHI to those purposes that make the return or destruction of PHI infeasible.
- (i) PCH shall require each of its agent and subcontractors that receive PHI from PCH hereunder who are not a party to this Agreement to execute a

written agreement, obligating the agent or subcontractor to comply with all the terms of this Section 16.

16.4 Survival. This Section 16 shall survive the termination of this Agreement.

17. Affiliation Negotiations; Exclusivity; First Right of Refusal

17.1 The Parties may engage in good faith discussions of affiliation arrangements in addition to (or in place of) this Agreement, including, without limitation, PCH becoming the sole member of CGH or other form of corporate affiliation of PCH and CGH, or other similar arrangements, and in connection with such discussions CGH shall provide PCH with any and all materials PCH may request in order to allow PCH to review such possible affiliation.

17.2 The Parties shall maintain the confidentiality of all negotiations and shall not provide information regarding the negotiations to any third party, and except to the extent required by law, as reasonably required by the disclosing Party in order to secure necessary legal, consulting, advisory or accounting services relating to potential affiliation, or as otherwise agreed to by the Parties in writing. Any agreement for affiliation in addition to (or in place of) this Agreement shall be subject to all approvals as may be required by law.

17.3 During: (i) the term of this Agreement and for a period of twelve (12) months after the termination of this Agreement; or (ii) at any time CGH owes money to PCH (the "Exclusivity Period"), CGH shall not entertain or accept any offer or other arrangement from any third party to purchase or lease the Hospital or purchase substantially all the assets of CGH, to merge or otherwise place CGH and the third party into common ownership or control, or any other arrangement in which a third party would control CGH's assets or business ("Affiliation Offer").

17.4 If CGH receives an Affiliation Offer during the Exclusivity Period, CGH shall within thirty (30) days after CGH's receipt of the Affiliation Offer provide PCH with: (a) written notice of such Affiliation Offer; (b) a true and complete copy of the Affiliation Offer; and (c) all relevant information and materials relating to the offer ("Notice of Offer").

17.5 In consideration of PCH's undertakings as set forth herein, if CGH receives an Affiliation Offer within three (3) years after the expiration of the Exclusivity Period: (a) CGH shall provide PCH with the Notice of Offer set forth above; and (b) PCH shall have a right of first refusal to enter into an arrangement with CGH on the same terms as the Affiliation Offer on the following basis: PCH shall have sixty (60) days following receipt of the Notice of Offer to elect whether to exercise its right of first refusal and shall provide CGH with written notice of its election within this sixty (60) day period ("Election Notice"). If PCH provides CGH with a timely Election Notice, CGH and PCH shall negotiate in good faith to complete and execute a binding written

agreement to establish the relationship specified in the Affiliation Offer PCH and CGH. If, notwithstanding the good faith negotiations, PCH and CGH do not enter into a binding written agreement to establish the arrangement specified in the Affiliation Offer within sixty (60) days of the Election Notice, PCH shall be deemed to have waived its right of first refusal as provided herein; provided, however, CGH may not delay agreement in order to defeat PCH's right of first refusal. Any exercise of this right of first refusal by PCH shall be subject to all approvals as may be required by law or contract. PCH shall maintain the confidentiality of any Affiliation Offer and subsequent negotiations and shall not use the information relating to an Affiliation Offer or disclose such information to any third party, except as required by law, as reasonably required by PCH in order to secure necessary legal, consulting, advisory or accounting services relating to the right of first refusal, or otherwise agreed to in advance by CGH in writing.

17.6 The provisions of this Section 17 shall only be enforceable to the extent permitted by state law.

18. Special Projects. PCH may, from time to time, engage consultants to perform projects and studies, which consultants would not be employees of PCH or its affiliates or its subsidiaries, and all amounts of their reasonable expenses and fees shall be paid directly by CGH to the consultant involved. However, it is agreed that PCH shall not engage any such consultants without first obtaining the approval of the Board or its Designated Representative.

19. Disclaimer of Intent To Become Partners. PCH and CGH shall not by virtue of this Agreement be deemed partners or joint venturers in the operation of the Hospital or any related facility. It is expressly understood that PCH is hereby retained by CGH to assist in the management of the Hospital, and that PCH is constituted the agent of CGH only for the purpose of carrying out its obligations under this Agreement.

20. Absence of Conflicts of Interest. In connection with its management responsibilities, while this Agreement shall remain in effect, any person who serves as a member of the Board who shall have a "conflict of interest" shall be required to disclose the same to PCH. For the purposes hereof, a "conflict of interest" shall be defined as any financial interest or investment, direct or indirect, in CGH, or as being a party to any contract or contracts for the providing of any goods or services to CGH. CGH and PCH agree that nothing in this Agreement is meant to, nor shall be interpreted to, in any manner restrict, limit or prohibit CGH or PCH from owning or participating in the operation of any other business, and that any such affiliation shall not be deemed a "conflict of interest" hereunder.

21. Cooperation. The parties acknowledge that the parties' mutual cooperation is critical to the ability of PCH to perform its duties hereunder successfully and efficiently. Accordingly, each party agrees to cooperate with the other fully in formulating and implementing goals and objectives which are in CGH's best interest.

22. Notices of Violation/Surveys. In the event CGH or PCH, as the case may be (the "Notified Party"), receives written notice of a violation, an alleged violation (or any findings

relating thereto) (a "Violation Notice") of any law, rule, regulation, ordinance or other obligation imposed by any federal, local or other governmental or quasi-governmental regulatory authority, regarding CGH, the operation of the Hospital or PCH's right to assist in the management of the Hospital, then (i) the Notified Party shall provide written notice to the other party of the Violation Notice within five business days of such Notified Party's receipt of same and PCH shall take actions reasonably necessary to correct the violation(s) or alleged violation(s) (and/or any findings of same) set forth in the Violation Notice. PCH shall notify CGH, in writing, when such corrective actions have been taken.

23. Indemnification.

23.1 To the greatest extent permitted by applicable law, CGH agrees to indemnify and to hold PCH, its affiliates, and the officers, directors, shareholders, agents and employees of each of them (the "Indemnified Persons"), harmless from and against all losses, claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) (the "Indemnity Obligations") incurred by PCH arising out of or relating to the ownership and all operations of the Hospital, including without limitation any such liability asserted against any Indemnified Person by reason of (i) failure by Hospital to perform any of its duties hereunder; (ii) any action against PCH brought by any of Hospital's employees, former employees or volunteers or any other third party other than as a result of actions taken or omitted by PCH; (iii) any act or omission by the Board; (iv) any violation of any requirement applicable to the Hospital under any federal or local law or regulation; provided, however, that notwithstanding anything herein to the contrary, this indemnification shall not apply to any such losses, claims, damages, liabilities or costs and expenses arising out of or resulting solely from the willful misconduct or gross negligence of any Indemnified Person.

23.2 PCH agrees to indemnify and hold CGH, its affiliates, and the officers, directors, shareholders, agents and employees of each of them (the "CGH Indemnified Persons"), harmless from and against all losses, claims, damages, liabilities, costs and expenses (including reasonable attorneys' fees and disbursements) (the "CGH Indemnity Obligations") incurred by CGH arising out of or relating to acts or omissions of acts performed under this agreement resulting from the entry of a final judgement from a court of a competent jurisdiction finding that PCH was negligent or grossly negligent with respect to such act or omissions.

23.3 No Limitations. The indemnity agreement in this Section shall not foreclose any other rights or remedies CGH or PCH may have to enforce the provisions of this Agreement, or their order of enforcement.

23.4 Notice and Right To Defend. Should any claim or action by a third party arise for which CGH is liable under the indemnity provisions of this Agreement, PCH shall notify CGH within a reasonable time after PCH receives notice of such claim or action and shall give CGH a reasonable opportunity to settle or to defend any such claim or action; provided, however, that PCH's failure to give such notice or opportunity shall

not void or otherwise affect CGH's obligation to indemnify against such claim or action. The expenses of all such proceedings, contests, lawsuits or investigations of claims with respect to such claims or actions shall be borne by CGH. If CGH wishes to assume the defense of such claim or action, it shall give written notice to PCH within 10 days after notice from PCH of such claim or action of its intention to assume the defense, and CGH shall thereafter assume the defense of any such claim or liability through counsel reasonably satisfactory to PCH, provided that PCH may also participate in such defense at its own expense.

23.5 If CGH shall not assume the defense of, or if after so assuming it shall fail to satisfactorily defend, any such claim or action, PCH may defend against any such claim or action in such manner as it may reasonably deem appropriate and PCH may settle such claim or litigation on such terms as it may reasonably deem appropriate, and CGH shall promptly reimburse PCH for the amount of all reasonable expenses, legal and otherwise, incurred by PCH in connection with the defense and/or settlement of such claim or action. If no settlement of such claim or action is made, CGH shall satisfy any judgment rendered with respect to such claim or in such action before PCH is required to do so, and pay all expenses, legal or otherwise, incurred by PCH in the defense against such claim or litigation.

23.6 If a judgment is rendered against PCH on any action covered by the indemnification hereunder, CGH shall immediately upon such entry or attachment pay or bond such judgment in full or discharge or bond such lien unless, at the expense and direction of CGH, an appeal is taken under which the execution of the judgment is stayed. If and when a final judgment is rendered in any such action, CGH shall forthwith pay such judgment before PCH is compelled to do so.

24. **Confidentiality.** All information, instruments, documents and details concerning the business of CGH and PCH are strictly confidential, and each party expressly covenants and agrees with the other that for the term of this Agreement and for one year thereafter, it will not nor will it allow any of its officers, directors, employees or agents to disclose any matters relating to the business of the other or to this Agreement, its negotiation, terms, provisions or conditions, except as may be reasonably necessary to effectuate the transaction contemplated hereby and except to the extent that such information, instrument or document has become public information other than by reason of such disclosures provided, however, neither party shall be prohibited from making any legally required disclosure. CGH shall notify PCH at least 10 days prior to making any disclosure allegedly required by state law and prohibited by this Agreement.

25. **Proprietary Interest.** The systems, methods, procedures and controls employed by PCH and any written materials or brochures developed by PCH to document the same are to remain the property of PCH, and CGH shall not, unless required by Florida law, at any time, utilize, distribute, copy or otherwise employ or acquire any such materials or brochures without PCH's prior written consent, which PCH may withhold in its sole discretion. CGH shall notify

PCH at least 10 days in advance prior to utilizing, distributing, copying or otherwise producing any item subject to this section 25. This Section shall not apply to systems, methods, procedures, controls and materials developed solely by the Hospital or their personnel or physicians. Nothing in this Agreement shall permit CGH to participate in decisions concerning PCH's business.

26. Notices. All notices required or permitted hereunder shall be given in writing by hand delivery, by express delivery, or by registered or certified U.S. mail, postage prepaid, as follows:

if to CGH, addressed to: HD. Cannington
Campbellton-Graceville Hospital
5429 College Drive
Graceville, Florida 32440
hd.cannington@c-ghospital.org
(850) 263-3312

if to PCH, addressed to: Dr. Seth Guterman
2000 Spring Road - Suite 200
Oak Brook, IL 60523
sguterman@peopleschoicehospital.com
(312) 276-8116

or to such other address or to such other person as may be designated by notice given from time to time during the term hereof by one party to the other. Any notice hereunder shall be deemed given upon delivery or refusal of delivery, or if given by mail, five business days after depositing with the U.S. Postal Service in the manner described above.

27. No Guaranty of Profitability. CGH acknowledges that PCH does not warrant or guarantee that CGH or the Hospital will be profitable.

28. Assignment. This Agreement shall not be assigned by any party without the prior written consent of the other party; provided, that PCH may assign its right to receive payments hereunder without the consent of any party.

29. Medicare Reporting Requirements. The parties agree to comply with 42 U.S.C. Section 1395x(v)(1) and make available to appropriate federal authorities the contract, books, documents and records reflecting the services performed hereunder for a period of four years from and after the termination of services under this Agreement. Additionally, the parties agree to comply with Section 1861(y)(1)(D) of the Social Security Act and require all of their related subcontractors who perform services under this contract with the value or cost of \$10,000 or more over a 12-month period to contractually agree that until the expiration of four calendar years after the furnishing of services under the subcontract, the subcontractor shall make available, upon written request of the appropriate federal authorities, the subcontract and books, documents and records of the subcontractor that are necessary to verify the nature and

extent of the costs involved in the subcontract. This Section shall survive the termination of this Agreement.

30. **Changes in Rules and Laws.** This Agreement shall be construed to be in accordance with any and all federal and state laws, including laws relating to Medicare, Medicaid and other third party payors. If (a) Medicare, Medicaid, any third party payor or any federal, state or local legislative or regulatory authority adopts any law, rule, regulation, policy, procedure or interpretation thereof which would require a material change in the provision of the PCH services under this Agreement; or if (b) any or all such payors or authorities impose requirements which require a material change in the manner of either Party's operations under this Agreement and/or the costs related thereto, then, upon the written request of either Party materially affected by any such change in circumstances, the Parties shall immediately enter into good faith negotiations for the purpose of establishing such amendments or modifications as may be appropriate in order to accommodate the new requirements and change of circumstances while preserving the original intent of this Agreement to the greatest extent possible. . The parties expressly recognize that upon request for renegotiation, each party has a duty and obligation to the other only to renegotiate the affected term(s) in good faith and, further, each party expressly agrees that its consent to proposals submitted by the other party during renegotiation efforts shall not be unreasonably withheld. Should the parties be unable to renegotiate the term or terms so affected so as to bring it/them into compliance with the statute, regulation or judicial opinion that rendered it/them unlawful or unenforceable within thirty (30) days of the date on which notice of a desired renegotiation is given, then either party shall be entitled, after the expiration of said thirty (30) day period, to terminate this Agreement upon thirty (30) additional days written notice to the other party. In addition, if at any time before the expiration of this Agreement, any federal, state or local regulatory body, including but not limited to the Department of Health and Human Services or the Internal Revenue Service, determines that this Agreement is illegal, jeopardizes CGH's tax exempt status or otherwise adversely affects CGH's or PCH's activities or business, the governing body of the Party so affected by the regulatory body determination may terminate this Agreement within an appropriate time frame.

31. **Prior Acts.** The Parties confirm PCH is not responsible for: (a) any acts or omissions of CGH or its employees or agents before the Effective Date of this Agreement, including, but not limited to, CGH's failure to pay any obligations to its employees, vendors, and local state and federal taxing authorities (including, but not limited to, any failure by CGH to pay employment taxes, unemployment taxes, health care insurance premiums, payments to retirement accounts or any other employee benefits); nor (b) any acts or omissions of CGH or its employees or agents after the Effective Date unrelated to PCH's provision of the PCH services hereunder.

32. **Independent Contractor.** It is expressly acknowledged that CGH and PCH are independent contractors, and nothing in this Agreement is intended and nothing shall be construed to create an employer/employee partnership, joint venture or other type of relationship, or to allow CGH to exercise control or direction over the manner or method by

which PCH performs the PCH services that are the subject of this Agreement; provided, however, that the PCH services rendered under this Agreement shall be furnished in a manner consistent with the standards governing those services and the provisions of this Agreement. PCH's employees and agents are not employees of CGH for any purpose. Similarly, CGH's employees and agents are not employees of PCH for any purpose. All such persons will be employees of CGH, or independent contractors or the employees of independent contractors. Except as provided in this Agreement, PCH will have no liability for payment of the wages, payroll taxes and other expenses of employment of the employees of CGH (including the Key Personnel).

33. **Estoppel Certificate.** Each party agrees at any time, and from time to time, upon written request from the other party, to execute and deliver to the other party any one or more of the following:

(a) a statement in writing, certifying that this Agreement is unmodified and in full force and effect, if such is the case (or if there have been modifications, that the same is in full force and effect as modified, and stating the modifications), and the date to which the Consulting Fee has been paid.

(b) At any time after the commencement of the initial term hereof, a certificate confirming the date that the initial term commenced and the term of this Agreement. (However, neither of said dates shall be affected by the delivery or nondelivery of such certificate.)

34. **Nonwaivers; Entire Agreement.** The failure of one party to exercise any of its rights or to give any notice with respect to any default by another party or otherwise to insist upon the strict performance of another party's obligations hereunder shall not prevent that party from doing so at any time subsequently either with respect to the same default or with respect to any other (similar or nonsimilar) default. No provision of this Agreement shall be deemed to have been waived by a party unless such waiver is expressly set forth in a writing signed by the waiving party. This Agreement contains the entire agreement among the parties, superseding any prior agreements, and any agreement hereafter made shall be ineffective to change, modify or discharge the Agreement, unless such agreement is in writing and signed by the party against whom enforcement of the change, modification, discharge or abandonment is sought.

35. **Severability.** If any immaterial paragraph, subparagraph, term or provision of this Agreement or the application thereof to any person or circumstance shall to any extent be invalid and unenforceable, the remainder of this Agreement or the application of such paragraph, subparagraph, term or provision to persons or circumstances, other than those as to which it is invalid or unenforceable, shall not be affected thereby, and each paragraph, subparagraph, term and provision of this Agreement shall be valid and shall be enforced to the extent permitted by law.

36. **Binding Effect.** Except as herein otherwise provided, this Agreement shall inure to the benefit of, and shall be binding upon, the parties hereto and their respective executors, administrators and permitted successors and assigns.

37. **Headings: Captions.** The captions herein are inserted only as a matter of convenience and for reference and in no way define, limit or describe the scope of this Agreement or the intent of any provision thereof.

38. **Governing Law.** This Agreement shall be governed by and interpreted under the laws of the State of Florida, without resort to choice of law principles.

39. **Execution.** This Agreement may be simultaneously executed in counterparts, each of which, when so executed and delivered, shall constitute an original, fully enforceable counterpart for all purposes.

40. Pronouns. Any pronoun or any variation thereof used herein shall be deemed to refer to the masculine, feminine, neuter, singular or plural, as the identity of the parties may require.

IN WITNESS WHEREOF, each of the parties hereto has duly executed this Agreement as of the day and year first above written.

CAMPBELLTON-GRACEVILLE HOSPITAL
CORPORATION

By: Peter F. Pelham
Its: Board Chairman

PEOPLE'S CHOICE HOSPITAL

By: [Signature]
Its: President

IN THE CIRCUIT COURT OF THE 14th
JUDICIAL CIRCUIT IN AND FOR
JACKSON COUNTY, FLORIDA

CASE NO.: 16-136 CA

CAMPBELLTON GRACEVILLE HOSPITAL
CORPORATION, a Florida Non-Profit Corporation,

Plaintiff,

v.

PEOPLES CHOICE HOSPITAL, a Foreign Corporation,

Defendant.

**ORDER GRANTING PLAINTIFF, CAMPBELLTON GRACEVILLE HOSPITAL
CORPORATION'S SECOND *EX PARTE* EMERGENCY
VERIFIED MOTION FOR TEMPORARY INJUNCTION
AGAINST DEFENDANT PEOPLES CHOICE HOSPITAL**

THIS CAUSE having come on to be heard before the Court on June 22, 2016, on Plaintiff, Campbellton Graceville Hospital Corporation's Second *Ex Parte* Emergency Verified Motion for Temporary Injunction against Defendant, Peoples Choice Hospital, and the Court having considered the verified motion and supporting affidavits and being otherwise advised on the premises, it is here upon:

ORDERED AND ADJUDGED

1. The Court finds that Plaintiff has demonstrated: (1) irreparable harm will result unless the status quo is maintained; (2) a clear legal right to the relief requested; (3) an inadequate remedy at law; and (4) a temporary injunction will serve the public interest.
2. First, Plaintiff has established a clear legal right to relief granted herein. Plaintiff has produced sufficient evidence to establish a likelihood that there was a wrongful taking of hospital funds by the Defendant with an intent to deprive the Plaintiff of those funds, or to



appropriate those funds to its own use, and that the Plaintiff is responsible and accountable to the public for the proper use of those funds.

3. Second, Plaintiff has shown the likelihood that the funds will be dissipated if Defendant's account is not enjoined. Given Defendant's failure to respond to Plaintiff's demands for financial disclosure and public records demonstrate the Defendant's intent to misappropriate the hospital assets for its own use. Further, the hospital has been sued by a third party for damages in excess of 4.4 million dollars, and the President of PCH has threatened to move funds from the hospital's accounts as soon as June 22, 2016. Accordingly, there is great likelihood that Defendant will attempt to dispose of or hide the identified and traced funds, which rightfully belong to Plaintiff and the public.
4. Third, the evidence demonstrates that the injunction is in the public interest to avoid the Defendant further defrauding the public.
5. Finally, the funds wired to Defendant's account were wrongfully obtained. The preliminary injunction will prevent further fraudulent payments from being transferred from one account to another.
6. If the account is not enjoined, the fraud on the Plaintiff and the public will continue. Therefore, a preliminary injunction is proper against the Defendant.
7. Plaintiff, Campellton Graceville Hospital Corporation's Second *Ex Parte* Emergency Verified Motion for Temporary Injunction against Defendant, Peoples Choice Hospital is hereby **GRANTED**.
8. The Court hereby enjoins and prohibits Defendant, and any of its officers, agents, servants, employees, attorneys, or those persons in active concert or participation from directly or


indirectly removing, stealing, and/or converting any of the funds from Peoples Bank of Graceville.

9. The Court orders Defendant and/or Peoples Bank of Graceville to produce to the Plaintiff within two business days any and all documents relating to Peoples Bank of Graceville account number 2000377 from May 1, 2015 to the present, including but not limited to correspondence between Peoples Bank of Graceville and the Defendant, and any documents relating to deposits and/or withdrawals from that account. Further, Seth Guterman, Chris Alise, Jorge Perez, and Edith Mears are to be immediately removed from signatory access to the account, and board chairman Pat Pelham is to be reinstated as signatory.

10. This temporary injunction shall remain in effect until further notice from this Court.

11. Bond is hereby waived in accordance with Rule 1.610(b), Florida Statutes.

DONE AND ORDERED in Marianna, Jackson County, Florida on this 22 day of June, 2016.


HON. WILLIAM WRIGHT
CIRCUIT COURT JUDGE

3:09pm CDST

Copies furnished to:
Michelle Jordan, Attorney for Plaintiff

Filing # 43994336 E-Filed 07/15/2016 11:49:18 AM

AFFIDAVIT OF SERVICE

State of Florida

County of Jackson

Circuit Court

Case Number: 16-136CA

Plaintiff:

CAMPBELLTON GRACEVILLE HOSPITAL CORPORATION, a Florida Non-Profit Corporation

vs.

Defendant:

PEOPLES CHOICE HOSPITAL, a Foreign Corporation



TPL2016040193

For: Michelle Blankenship Jordan
Jordan Peekin, P.A.

Received by Todd M. Martinson on the 7th day of July, 2016 at 11:30 am to be served on PEOPLES CHOICE HOSPITAL, 2000 Spring Road, Suite 200, Oak Brook, IL 60523. I, Todd M. Martinson, being duly sworn, depose and say that on the 14th day of July, 2016 at 2:00pm, executed service by delivering a true copy of the Summons, Complaint, Certification By Attorney, Exhibits, Second Ex Parte Emergency Verified Motion for Temporary Injunction, Affidavit of Edith Mears, CFO of Campbellton Graceville Hospital, Supplemental Order Denying Without Prejudice Plaintiff, in accordance with state statutes in the manner marked below:

☒ CORPORATE SERVICE: Served the within named corporation by delivering a true copy of the documents listed herein with the date, hour of service, initials, and appointment number (when applicable) endorsed thereon by me, to Darla Mason as Receptionist and authorized person to accept of the within-named corporation and informed said person of the contents therein pursuant to F.S. 48.081.

() PUBLIC AGENCY: Served the within named agency by delivering a true copy of the documents listed herein with the date, hour of service, initials, and appointment number (when applicable) endorsed thereon by me, to _____ as _____ of the within-named agency and informed said person of the contents therein pursuant to F.S. 48.111.

() AUTHORIZED SERVICE: Served the within named entity by delivering a true copy of the documents listed herein with the date, hour of service, initials, and appointment number (when applicable) endorsed thereon by me, to _____ as _____ of the within-named entity and informed said person of the contents therein pursuant to Florida Statutes.

() NON SERVICE: For the reason detailed in the Comments below.

COMMENTS: _____

Age 47 Sex M ☒ Race White Height 5' 9" Weight 150 Hair Blonde Glasses Y ☒



AFFIDAVIT OF SERVICE For 16-136CA

I certify that I have no interest in the above action, am of legal age and have proper authority in the jurisdiction in which this service was made. The service, date, time, my initials and/or name, and identification number, if required by state statute, were listed on the documents served.

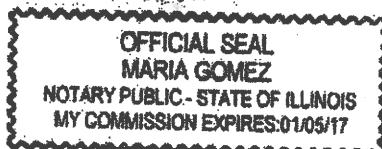
F.S. 92.525, UNDER PENALTIES OF PERJURY, I DECLARE THAT I HAVE READ THE FOREGOING (DOCUMENT) AND THE FACTS IN IT ARE TRUE TO THE BEST OF MY KNOWLEDGE.

DATE: 7-14-16

UNOFFICIAL
DOCUMENT

Subscribed and sworn to before me on the 14 day
of July, 2016, by the affiant who is
personally known to me.

NOTARY PUBLIC



Todd M. Martin

PROCESS SERVER # IL #115-002025
Appointed in accordance with State Statutes

Tropical Surveillance and Investigations
P.O. Box 10961
Tampa, FL 33679
(813) 258-8885

Our Job Serial Number: 2016040193
Ref: Campbellton Graceville Hospital

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF FLORIDA
PANAMA CITY DIVISION

CAMPBELLTON GRACEVILLE)
HOSPITAL CORPORATION, a Florida)
Non-Profit Corporation)

Plaintiff,)

v.)

Case No. 15-cv-8560

PEOPLES CHOICE HOSPITAL, a foreign)
corporation,)

Defendant.)

AFFIDAVIT OF DR. SETH J. GUTERMAN

The undersigned, Dr. Seth J. Guterman, being first duly sworn under oath, states as follows:

1. My name is Seth Guterman, I am over the age of 18 and I reside in Chicago, Illinois.
2. The facts set forth in this Affidavit are based on my own personal knowledge and, if called upon to do so, I could and would competently testify to the same.
3. I am the sole member and manager of The People's Choice Hospital, LLC ("PCH"), the defendant in the above-captioned lawsuit.
4. PCH is a Delaware limited liability company registered to do business in Illinois, and it maintains its principal place of business in Oak Brook, Illinois.
5. PCH and Plaintiff Campbellton Graceville Hospital Corporation ("CGH") are parties to a Consulting Agreement attached to CGH's State Action Complaint as Exhibit A.
6. Pursuant to Section 7.1 of the Consulting Agreement, PCH is entitled to receive a monthly consulting fee from CGH of \$30,000.

7. PCH issues monthly invoices to CGH for various amounts it is owed, including for the monthly consulting fee.

8. As of July 25, 2016, PCH has not been paid for invoices 177, 178 or 186, which are each in the amount of \$30,000 and which were issued, respectively, for the monthly consulting fee for May, June and July 2016. Copies of these unpaid invoices are attached as Exhibit A.

9. As of July 25, 2016, PCH is owed \$90,000 in monthly consulting fees. This amount will increase each month until this dispute is resolved.

10. Once the State Action is removed to this Court, PCH intends seek leave of Court to answer CGH's Complaint and to file affirmative defenses and a counter-claim against CGH seeking in excess of \$90,000 in damages, exclusive of interest and costs.

Further Affiant Sayeth Naught:



Dr. Seth J. Guterman

STATE OF ILLINOIS)
) SS.
COUNTY OF COOK)

The undersigned, a Notary Public in and for said County, in the State aforesaid, does hereby certify that Dr. Seth J. Guterman, appeared before me this day in person and acknowledged that he signed and delivered the said instrument as his own free and voluntary act and as his free and voluntary act for the uses and purposes therein set forth.

GIVEN under my hand and notarial seal, this 29th day of July 2016.



Notary Public

